

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

FELTON LOVE, JR.,

Plaintiff,

v.

JEFF MACOMBER, et al.,

Defendants.

No. 2:23-cv-00790-DJC-EFB (PC)

FINDINGS AND RECOMMENDATIONS

Plaintiff, a state prisoner, proceeds without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On September 6, 2023, the court dismissed plaintiff's claims against defendants Jeff Macomber and Tracy Johnson for failure to state a claim, with leave to amend within 30 days. ECF No. 26. The court dismissed all of plaintiff's remaining claims with prejudice. *Id.* The court cautioned plaintiff that failure to file the amended complaint within the time provided may result in dismissal of the action. *Id.* Despite an extension of time, plaintiff has not filed an amended complaint or otherwise responded to the court's order. ECF No. 28. Thus, it appears that plaintiff is unable or unwilling to cure the defects in the complaint.

It is therefore RECOMMENDED that this action be DISMISSED without prejudice for failure to state a claim and the Clerk of Court be directed to close the case.

1           These findings and recommendations are submitted to the United States District Judge  
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
3 after being served with these findings and recommendations, any party may file written  
4 objections with the court and serve a copy on all parties. Such a document should be captioned  
5 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the  
6 objections shall be served and filed within fourteen days after service of the objections. The  
7 parties are advised that failure to file objections within the specified time may waive the right to  
8 appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*  
9 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

10  
11 Dated: November 17, 2023

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE